AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of New Jersey

United States of America
v.
ELIJAH BURKS

Defendant(s)

Case No. 11-MJ-2010

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 6, 2010 in the county of Camden in the District of New Jersey, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. Sections 922(g)(1) and 2	On or about July 6, 2010, at Camden, in the District of New Jersey, and elsewhere, the defendant, ELIJAH BURKS, having been convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm, namely, a Springfield Armory pistol, model XD-9 Sub-Compact, caliber 9mm Luger, serial number US931059, and 16 round high capacity magazine marked "XD Gear." See ATTACHMENT A.

This criminal complaint is based on these facts:

See ATTACHMENT B

☑ Continued on the attached sheet.

Donald L. Rudy
Complainant's signature

DONALD L. RUDY, Special Agent, ATF
Printed name and title

Sworn to before me and signed in my presence.

Date: 02/02/2011

Joel Schneider
Judge's signature

City and state: Camden, New Jersey

HON. JOEL SCHNEIDER, U.S. Magistrate Judge
Printed name and title

CONTENTS APPROVED

UNITED STATES ATTORNEY

By: ______________________

Diana Vondra Carrig, Assistant U.S. Attorney

Date: February 2, 2011

ATTACHMENT A

On or about July 6, 2010, at Camden, in the District of New Jersey, and elsewhere, the defendant,

ELIJAH BURKS,

having been convicted of a crime punishable by imprisonment for a term exceeding one year in a court in the State of New Jersey, did knowingly possess in and affecting commerce a firearm, namely, a Springfield Armory pistol, model XD-9 Sub-Compact, caliber 9mm Luger, serial number US931059, and 16 round high capacity magazine marked "XD Gear."

In violation of Title 18, United States Code, Section 922(g)(1) and Title 18, United States Code, Section 2.

ATTACHMENT B

I, Donald L. Rudy, am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") and have been so employed since 1999. I am currently assigned to the Camden Field Office of the ATF where I investigate weapons offenses and other violations of federal law. I have personally participated in this investigation, and I am aware of the facts contained herein based upon my own investigation as well as information provided to me by other law enforcement officers having knowledge of the case. Since this Affidavit is submitted for the sole purpose of establishing probable cause to support the issuance of a complaint, I have not necessarily included each and every fact known by the Government concerning this investigation. Except as otherwise indicated, the actions, conversations, and statements of others identified in this affidavit are reported in substance and in part.

1. On or about May 25, 2010, the State of New Jersey issued an arrest warrant for ELIJAH BURKS for the unlawful possession of a firearm.

2. On or about July 6, 2010, officers from the Camden Police Department and New Jersey State Police received information that ELIJAH BURKS was at the McDonald's restaurant located at the intersection of Haddon Avenue and Federal Street in Camden, New Jersey.

3. The officers responded to the McDonalds parking lot, where they observed BURKS walking into the McDonalds restaurant with another male. The officers waited in an unmarked car in the parking lot of the McDonald's for BURKS to exit the restaurant.

4. When BURKS and the other male exited the McDonalds, the officers exited their vehicle and identified themselves as police officers. While one officer approached the unknown man, the other officer approached BURKS, informed BURKS that he was under arrest, and placed handcuffs on BURKS. In the course of making the arrest, the officer conducted a pat down search of BURKS' person for weapons, and felt a hard object in BURKS' right pocket, which the officer believed to be a handgun. The officer then removed a firearm from BURKS's pocket.

5. The firearm that was in BURKS' possession is a Springfield Armory, model XD-9 subcompact, 9mm Luger pistol, bearing serial number US931059. At the time of BURKS' arrest, the firearm contained an empty 16 round magazine marked XD Gear.

6. I am aware, based on my training and experience that this Springfield Armory, model XD-9 subcompact, 9mm Luger pistol, serial number US931059 firearm, was not manufactured in the State of New Jersey. Rather, it was manufactured in the country of Croatia and imported into the state of Illinois. By virtue of the fact that the subject Springfield Armory, model XD-9 subcompact, 9mm Luger pistol was manufactured in Croatia, imported in the State of Illinois, and found in the State of New Jersey, it traveled in or affected interstate and foreign commerce.

7. I have reviewed the criminal history of Elijah BURKS. BURKS has four prior felony convictions, including but not limited to, a 2002 conviction in Camden County New Jersey Superior Court for Possession with intent to distribute Controlled Dangerous Substance, which is a violation of N.J.S.A. 2C:35-5b(3) (State of New Jersey v. Elijah BURKS a/k/a Eric J. Krits, Ind. I-3303-10-01), for which BURKS was sentenced on February 18, 2005 to four years imprisonment.

8. Based upon the above, I submit that there exists probable cause that ELIJAH BURKS violated 18 U.S.C. §§ 922(g)(1) and 2, having been found in possession of a firearm after having been convicted of a felony.